Appendix

Supreme Court, U. S.
FILED
DEC 14 1978
MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM 1978
No. 334

78-334

KENNETH F. FARE,
Acting Chief Probation Officer,

Petitioner,

v.

MICHAEL C.,

Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CALIFORNIA

Petition for Certiorari Filed August 28, 1978

Certiorari Granted October 30, 1978

Westside Law Publishers Santa Monica, California 213/451-1714

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APPENDIX

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

February 6, 1976 – Petitioner Kenneth Fare's petition filed in the Superior Court of the County of Los Angeles

(Juvenile Court). (CT 1.)[1]

February 9, 1976 – Respondent and parents advised of their constitutional rights; public defender appointed to represent respondent; respondent admits paragraph two (2) of the petition and denies paragraph one (1); court orders respondent be detained in juvenile hall. (CT 2.)

April 6, 1976 – Adjudication hearing commences. (CT 8.)

April 7, 1976 – Adjudication hearing resumed; respondent's motion to dismiss denied without prejudice; motion for mistrial denied. (CT 9.)

April 8, 1976 – Adjudication hearing resumes. (CT 10.)

April 9, 1976 – Adjudication hearing resumes; Mirandized transcripts of Robin K. J., original transcript of respondent and tape recorded statement of respondent, and "Arandized" transcript[2] of respondent (Exh. 18) marked for identification. (CT 11.)

April 12, 1976 – Respondent's motion for a mistrial denied; motion to suppress statements of respondent denied; petition filed February 6, 1976, found to be true in count I and not true in count II; respondent found to be a person described by section 602 of the California Welfare and Institutions Code; accelerated clinical study ordered given respondent at the probation officer's psychiatric clinic. (CT 12.)

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[1] "CT" refers to the Clerk's Transcript.

[2] Transcripts with references to other minors deleted pursuant to *People v. Aranda* (1965) 63 Cal.2d 518 [47 Cal. Rptr. 353, 407 P.2d 265].

May 10, 1976 – Court finds welfare of respondent requires that custody be taken from parents or guardians; court finds respondent would be benefited by reformatory educational discipline or other treatment provided by Youth Authority; court orders prior court order of camp placement terminated; respondent ordered committed to the California Youth Authority; respondent ordered to remain detained at juvenile hall. (CT 13-14.)

June 25, 1976 – Respondent's notice of appeal filed. (CT 15.)

January 24, 1977 – Opinion of the Court of Appeal of the State of California, Second Appellate District, Division Three, filed. (Pet. for cert., App. B.)

May 30, 1978 – Opinion of the Supreme Court of the State of California filed. (Pet. for cert., App. A.)

Filed
February 6, 1976
Clarence E. Cabell
County Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
JUVENILE COURT

PETITION

In the Matter of
MICHAEL WAYNE CHRISTMAN Number
a minor. 466633-0440633 AC6-
IDC-ACT Active

Petitioner is informed and believes and therefore alleges, that MICHAEL WAYNE CHRISTMAN, hereinafter called minor, resides at 12232 Van Nuys Boulevard . . . Lake View Terras . . . California, and was born on 8-1-59 and was 16 years of age on August 1, 1975, and comes within the provisions of Section 602 of the Welfare and Institutions Code of California, in that:

Paragraph I: Said minor on or about January 19, 1976, at and in the County of Los Angeles, did willfully, unlawfully and with malice kill Robert Yeager, a human being; thereby violating section 187 of the Penal Code.

Paragraph II: Said minor, on or about January 19, 1976, at and in the County of Los Angeles, did willfully, unlawfully and by means of force and fear attempt to take personal property from the person, possession, and immediate presence of Marion Adam; thereby violating section 664/211 of the Penal Code.
The name and residence address of each parent and guardian of minor, known to me, is as follows:

Mother: Phyllis Kelly 12232 Van Nuys Boulevard
Lake View Terras, California
Stepfather: Alex Childs Same

The name and residence address of an adult relative residing within the country, or if there is no such person known, the name and address of the adult relative known to me to reside nearest to the court, is:

Minor was taken into custody by Los Angeles Police Department on 2-4-76 at 6:30 p.m. Minor is detained. The present whereabouts of minor is Central Juvenile Hall.

Therefore, petitioner respectfully requests that this minor be adjudged and declared a ward of the Juvenile Court and dealt with as such.

CLARENCE E. CABELL,
Acting Chief Probation Officer,
Petitioner

By [Signature]
S. BAILEY, IDC
Deputy Probation Officer

I certify under penalty of perjury that the foregoing is true and correct, according to my information and belief.

Executed on February 6, 1976
Court Date: 3-1-76, a.m.
School: None

Executed at Los Angeles, California

Signed
May 13, 1976

Date filed with Juvenile Court Clerk: February 6, 1976
SB/DLJ

Para. I sust. – Para II dism.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
JUVENILE COURT

Date: April 12, 1976 Dept. 203
Judge Bonnie Lee Martin
Probation Officer: R. Hanaway
Deputy Clerk Wm. E. Wilkins
Deputy Sherif T. Holeman
Reporter: K. Kearney

IN THE MATTER OF
CHRISTMAN, MICHAEL WAYNE, 16 yrs.,
a minor
No. 466633 0440633 AC 6 IDC ACT
APPEARANCES: Minor, DDA S. Levitin, Attorney P. RICE, DPD

ADJUDICATION PROCEEDINGS: The 602 petition filed on 2-6-76 is read to those present, and the minor and any parent or guardian or adult relatives are informed of their constitutional rights.

SWORN AND TESTIFYING: Charles Christensen

Counsel for minor motions for a mistrial is denied. Minor's motion to suppress the statements of minor is argued and the court denied the motion.

The court finds:

The petition filed 2-6-76 as to Paragraph I is true, and the petition is sustained, except that Paragraph II is found not to be true/dismissed.

Minor is a person described by Section 602 of the Welfare and Institutions Code.

The court orders:

Minor shall remain at Juvenile Hall pending the next hearing.

CONTINUED TO: May 10, 1976, 9:00 A.M., Dept. 203 for Disposition.

Petitioner's Exhibits #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #12, #13, #14, #15, #17, #18, previously marked for identification only are admitted in evidence. Petitioner's Exhibit #19 (yellow document signed by Christman) is admitted in evidence.

***An accelerated clinical study is ordered given minor at the probation Department Psychiatric Clinic.

602 petition filed on 4-5-76 is set for adjudication on April 23, 1976 at 8:30 a.m. in Department 201. (DA is ordered to subpoena all necessary witnesses. Disposition of the 2-6-76 petition is continued as indicated . . .

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
JUVENILE COURT

Date: May 10, 1976

Dept. 203

Judge Bonnie Lee Martin
Probation Officer R. Hanaway
Deputy Clerk Wm. E. Wilkins
Deputy Sheriff T. Holeman
Reporter N. Miller

IN THE MATTER OF

CHRISTMAN, MICHAEL WAYNE, 16 yrs.,
a minor

No. 466633 0440633 AC-6 626

APPEARANCES: Minor, mother, Attorneys S. Cooley, DA/P Rice, DPD

FINDINGS AND ORDER OF REFEREE
(DISPOSITION #1)

Disposition proceedings of petition filed 2-6-76: The Court having read and considered the social study filed herein and said report is admitted into evidence by reference.

***Sworn and testifying: Anthony Apodaca, Charles Christensen, Michael Christman, Phyllis Kelly.

The court finds:

Welfare of minor requires that custody be taken from parents or guardians.

The Court finds that the mental and physical condition and qualifications of the ward are such as to render it probable that he will be benefitted (sic) by the reformatory educational discipline or other treatment provided by the Youth Authority.

Order of camp community placement heretofore made on 1-13-75 is terminated.

The Court orders and adjudges that:

Minor remains a ward of the court under section 602 of the Welfare and Institutions Code.

Minor is ordered committed to the California Youth Authority.

Pending said order, Minor is to be: Remain at Juvenile Hall pending trans. to CYA; the continuance date of 7-12-76 is advanced and vacated.

Matter is continued to: Nonappearance calendar of 5-24-76, Dept. 203 for 15 day review; court advises minor and parties of appeal rights.

***The probation officer is directed to transport the minor to the reception center of the Youth Authority on the date designated by it.

Approved: **BONNIE LEE MARTIN**
Judge of Juvenile Court

Dated: May 10, 1976

This order was entered: May 13, 1976
John Corcoran, Acting County Clerk and
Clerk of the Superior Court

***Pursuant to 502 W&IC, the Court finds that the protection of the public as well as the rehabilitation of the minor will require long term commitment for educational and vocational training and to restructure his tendency for assaultive behavior, further the Court finds that the parents or guardian is incapable of providing and has failed to provide proper training and supervision for the minor.

***The Court further orders the reporter (Nickie Miller) to transcribe Court's statement in minor's case, and reasons for commit-tment, and place original copy in the file and send one copy to the California Youth Authority.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
JUVENILE COURT

In the matter of — Court No. 466633
CHRISTMAN, MICHAEL WAYNE — COMMITMENT TO
(Name of Ward) — THE YOUTH AUTHORITY

(Juvenile)

To the Youth Authority of the State of California.

The Court finds that:

1. The person named in this matter is described by Section 602, Welfare and Institutions Code, and has been adjudged a ward of the court, in that the petition filed 2-6-76 (Paragraph I) is sustained.

2. This person was born August 1, 1959.

3. The mental and physical condition and qualifications of this person are such as to render it probable that he will be benefited by the reformatory educational discipline or other treatment provided by the Youth Authority.

THEREFORE, the person named in this matter is hereby committed to the Youth Authority of the State of California.

Dated: May 10, 1976 — BONNIE LEE MARTIN
Judge

CERTIFICATION

I hereby certify that the foregoing is a correct copy of the original on file in my office.

Dated: May 13, 1976 — JOHN J. CORCORAN,
(Acting Clerk)
By A. GARCIA,
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES SITTING AS A JUVENILE COURT

DEPARTMENT NO. 203
HON. BONNIE LEE MARTIN, JUDGE

In the Matter of

(1) Michael Wayne Christman,	(1) No. 466633
(2) Michael Cooke,	(2) No. 503635
(3) Robbin Jerro,	(3) No. 494734

all persons under the age of 18 years.

PARTIAL REPORTER'S TRANSCRIPT OF ADJUDICTION HEARING CONDUCTED ON APRIL 9 AND APRIL 12, 1976[3]

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[3] (Reporter's Transcript page 355, line 4, through page 401, line 27.)

[355] STANLEY L. MILLER,
recalled as a witness on behalf of the Petitioner, having previously been sworn, testified further as follows:

DIRECT EXAMINATION (continued)
BY MR. LEVITIN:

Q. Sergeant Miller, during the course of your investigation, did you have a conversation with defendant Michael Christman?

A. Yes, sir.

Q. And when and where did that conversation take place?

A. That occurred on February 4, 1976, at Van Nuys Police Station.

Q. During the course of that conversation, before initiating the conversation, did you advise defendant Christman of his constitutional rights?

A. Yes, sir.

Q. What did you tell him in that regard?

A. I advised defendant Christman from a card, L.A.P.D. Form 15.30.

A. Did you read that card to him?

Q. Yes, sir, I did.

Q. Would you read it to us now in the same manner that you read it to him?

[356]A. I advised Michael Christman:

'You have the right to remain silent. If you give up the right to remain silent, anything you say can and will be used against you in a court of law.

'You have the right to speak with an attorney and to have the attorney present during questioning.

'If you so desire and cannot afford one, an attorney will be appointed for you without charge before questioning.'

I asked Michael Christman, 'Do you understand each of these rights as I have explained them to you,' and he stated, 'Yeah.'

I said, 'Do you wish to give up your rights to remain silent,' and he said, 'Yes.'

I said, 'Do you wish to give up your right to an attorney, have him present?'

At that time, he asked if he could speak to his probation officer. I advised him he had a right to have an attorney present. I would not call his probation officer, and he stated he would talk to me without an attorney at that point.

Q. All right, now, were there any other persons besides yourself and defendant Christman present during this conversation?

A. Yes, Investigator Steinauer.

Q. And this conversation took place at the Van Nuys Police Station, one of the interview rooms?

[357]A. Yes, sir.

Q. And was that conversation recorded?

A. Yes, sir.

Q. And did you cause or procure a transcript to be prepared of that recording?

A. Yes, sir.

Q. And have you reviewed the transcript and the recording?

A. Yes, sir.

Q. And is the transcript a true and correct copy of the recording, insofar as you are able to tell?

A. Yes, sir.

MR. LEVITIN: I'd like to have marked as People's next in order, People's —

THE COURT: 16, Petitioner's 16.

MR. LEVITIN: — this transcript of Michael Christman bears the tape number 61725.

Can I take a moment? Can I just have a moment to ask the witness something off the record?

THE COURT: Sure.

(Off the record discussion.)

MR. ALARI: Your Honor, I am going to show the portion of the transcript — Jerro to defense counsel to review before it goes to you.

MR. LEVITIN: I will mark the original People's 16 with the court's permission?

THE COURT: Petitioner's 16.

Q. BY MR. LEVITIN: Let me show you this document

[358] which is marked Petitioner's 16. Would you examine that for us, please, at this time?

Could you tell us whether or not that is the transcript of the recording to which you have referred in your testimony and in answer to my questions?

A. Yes, sir, it is.

MR. LEVITIN: At this time, I'd like to offer that into evidence, Your Honor, Petitioner's 16.

MISS RICE: Your Honor, there would be an objection. There are — I have personally listened to the tape and reviewed transcripts at the same time. There are a number of items marked 'unintelligible' I believe are intelligible with some effort. There are mistakes in the transcript. The most crucial points being the first few pages of the transcript. Perhaps counsel and I can arrive at a stipulation. I believe that it or a corrected transcript, I have made my own corrections from a rather laborious listening to the tape.

THE COURT: Do we have a problem with the introduction of the tape itself — then simply receive the transcript as a reference aid to the court.

MR. LEVITIN: Well, what I was going to provide the court was an 'Arandized' version of the orginal, the document I have just entered, just proffered to read.

This is the first counsel has advised me that there is any difficulty. I wish counsel would have done so earlier.

MISS RICE: I would assume we would be hearing the tape. I think there is something we can work out. The problems are basically in the first part.

[359]MR. LEVITIN: Well, I am willing to do that, of course.

THE COURT: Now, are there any so-called Aranda problems? This relates again to foundational information, does it?

MISS RICE: Yes, this is all as relates to foundation. I don't believe there are any Aranda problems on any foundational pages.

MR. LEVITIN: I think we can, with safety, play the tape.

THE COURT: Why don't you simply offer that portion of the tape and offer the — just the first few pages of the transcript to the court as a reference, and I will follow within. We can all three follow the tape against the transcript and make any corrections.

MR. LEVITIN: I might indicate to the court in going throught the transcript, it was not necessary to Arandize anything until page 11, and it is approximately the middle of page 11, so I think we can safely do that.

MISS RICE: I think we can.

THE COURT: All right, do you have the tape present, then?

MR. LEVITIN: Yes.

THE COURT: May we, counsel, may we have this tape marked and identified for the record as Petitioner's 17?

All right, does this have a number and date?

MR. LEVITIN: It bears the number Reel number 61725, subject Michael Christman.

THE COURT: Also for the record, do you have the approximate lines or revolutions on the tape marked? In other words, we are

[360] playing up to which number?

MR. LEVITIN: I wouldn't know.

THE COURT: All right, we can designate that when we complete it at the point where you stop it. The record will reflect we are starting it from the beginning.

MR. LEVITIN: Right.

THE COURT: Before you start, the court would like to have a transcript at the bench.

MISS RICE: Your Honor, there are some portions of the transcript that are foundational and then other portions of the transcript get into other areas other than foundation.

THE COURT: Well, can we stipulate at this time that the court received the first — how many —

MISS RICE: Well, I think we are going to have to block —

MR. LEVITIN: I have a copy of the Aranda —

MISS RICE: No, It is not an Aranda problem.

MR. LEVITIN: I suppose that I should indicate to defense counsel that the original has not been Arandized, so I would not be presenting it to the court. The one that has been Arandized is this other copy.

THE COURT: Let's mark this the Arandized copy of the transcript purporting to be a transcript of the tape recording of Petitioner's 17, and let's mark that Petitioner's 18, Arandized version.

MR. ALARI: I take it, should there be any slip-ups, the same precautions the court held regarding the other tape is contained in this tape as well as to their use?

[361]THE COURT: Well, at this point, as I understand it, we are offering only — Petitioner's offering only foundational statements, no substantive statements, and

would be received only as to Christman.

MISS RICE: Your Honor, could we have a recess at this time? I think we just need a quick run-through on the tape. I don't think it is going to —

THE COURT: You want to listen to the tape again?

MISS RICE: Just to decide — there are a few spots we are going to need to stop the tape. It is not complicated. We just need to take a practice run, so to speak.

THE COURT: What about 10 minutes?

MISS RICE: That should do it.

(Recess.)

THE COURT: We will resume. All counsel are present, minors are present.

Have we come to an agreement on that portion of the Petitioner's 18 which may be submitted to the court for reference in listening to the tape recording marked Petitioner's 17?

MISS RICE: I am sorry, Your Honor, what we are interested in is the first through line 24 of the second page. We will then start again on page 3, line 3, and then there is a portion later on in the transcript. Due to the fact it is a very short portion and will be difficult to find on the tape, we are going to enter into a stipulation. It is only two lines. That's page 14.

THE COURT: Lines —

[362]MISS RICE: Lines 13, 14, 15, and 16.

THE COURT: Lines 13 through 16?

MISS RICE: Yes.

Your Honor, I would indicate at this time that I am intending on calling a witness on this issue. At 2:00, I told the witness who called in, I said that I would not be needing him this afternoon. I assume that Monday morning would be an appropriate time to instruct that witness to be back. The court indicated we would be adjourning at 4:00.

THE COURT: All right. I don't believe the court

has received yet the copy of Petitioner's 18.

Now, it's the court's understanding that we are going to listen to the tape recording which corresponds to page 1 and page 3 as indicated, but not to lines on 14.

MISS RICE: Your Honor, there are some additions that I believe the district attorney would agree to that are not contained in the transcript. Perhaps we should give them to the court at this time.

Line — On page 2, lines 4, transcript reads: "Yeah, I want to talk to you." Should read, "Yeah, I might talk to you."

THE COURT: All right, may we correct by interlineation?

MR. LEVITIN: Petitioner so stipulates.

THE COURT: "Yeah, I might talk to you."

MISS RICE: Line 10 —

MR. LEVITIN: What page?

MISS RICE: This is page 2. "How I know you guys won't pull no police officer in and tell me he is an attorney?"

[363]MR. LEVITIN: So stipulated.

THE COURT: Will be amended by interlineation on line 10, page 2, to read: "How I know you guys won't pull no police officer in and tell me he is an attorney?"

MISS RICE: Yes. Line 1 is then a repeat of line 10.

Your Honor, there may be one or two words different in the repeat, but it's in substance a repeat.

Line 13, "Your probation officer is Mr. Christianson." Line 15, "Well, I am not going to call" — the word "him" is not on the tape. It is really, "Well, I am not going to call Mr. Christianson."

Line 24, "Yeah, I want to talk to you."

MR. LEVITIN: In other words, the lead-in words are unintelligible, and the "I want to" —

THE COURT: Those changes have been made by

the court by interlineation.

MISS RICE: We began at page 3, line 3.

THE COURT: And it goes to what?

MISS RICE: Goes to line 11 or 13, I am not sure what I indicated to the court. I stopped at line 11.

THE COURT: And then as to page 14, this is simply going to be a stipulation rather than listening to the tape, line 13 through 16.

MISS RICE: Your Honor, "Hey, man," something unintelligible, "Tell nobody what I have been telling you, man." The questioner would be the investigator — something unintelligible, "No way, no way," and then, "I am going to get my coffee."

[364]THE COURT: All right. Does that complete the preliminary matters on foundation as far as the petitioner's concerned, Mr. Levitin, or do you have anything additional you want to ask Sergeant Miller concerning foundation for Christman's statement?

MR. LEVITIN: That's all petitioner offers with regard to the foundational regard to Christman.

THE COURT: You want to wait and call the witness on Monday regarding the waiver?

MR. LEVITIN: Yes, Your Honor. If I did call him now, he wouldn't be here until fairly late.

THE COURT: I don't believe — do you want to proceed with argument on the Jerro statement at this time after the court's had an opportunity to read it?

MR. ALARI: I did want to after you have read it, Your Honor.

THE COURT: All right, we will let Sergeant Miller step down at this time.

Let's see again, on Jerro, page — what to what, counsel, am I to read?

MR. ALARI: From page 1 to 28. You have the full

text of it, line 1 through 28, bottom half of 28 has been blackened out. The petitioner represents it has been Arandized.

MR. LEVITIN: I think in addition to the petitioner's representation, it has also been circuited among defense counsel.

MISS RICE: I have not read it.

THE COURT: Well, it is available. Do you have a copy?

MISS RICE: I have read it. I have not read the Arandized

[365] version. I am familiar with it.

MR. ALARI: If you want to take more time, Your Honor, for a recess, it would be agreeable.

THE COURT: 28 pages, I think we can just sit here for a second and look through it together and then we will hear argument on it.

(Court reading transcript.)

THE COURT: The court has completed reading. This should be marked Petitioner's 18, I think, the Arandized version. The original, unexpurgated version was marked Petitioner's 15, was it not, counsel? Do you have the complete original statement?

MR. KAUFMAN: My records indicate 15 was Jerro's transcript.

MISS RICE: I have 15 was the Jerro transcript.

MR. LEVITIN: 16 was the original Christman transcript.

THE COURT: Well, I am now reading the Arandized version of the Jerro transcript, 15 being the original one. Do you have the original Jerro statement marked 15?

THE CLERK: Jerro, 15.

THE COURT: Where is that?

THE CLERK: And 18 is supposed to be —

THE COURT: Well, you have mismarked it. This is Petitioner's 18.

THE CLERK: That's this one.

THE COURT: It's the Arandized version of Jerro. If you will give the clerk — you didn't give him the original Jerro statement marked Petitioner's 15.

[366]All right, court has completed reading Petitioner's 18, which is submitted, the Arandized version of the transcript of the Jerro transcript up to page 28.

MR. ALARI: Is the court prepared to grant a motion to suppress the confession at this time?

THE COURT: Let me ask Mr. Levitin, is there anything further that follows before any substantive statements are made as far as a waiver is concerned?

MR. LEVITIN: No, Your Honor.

THE COURT: I don't find any waiver in here, counsel. Do you want to argue it?

MR. LEVITIN: We will submit it.

THE COURT: Motion is granted to suppress statement made by Jerro.

MR. ALARI: Thank you, Your Honor.

MR. LEVITIN: Your Honor, counsel has asked me to make a representation to the court, which I am agreeable to doing, that that is the extent of the evidence that we have against defendant Jerro, and I think counsel has a motion to put before the court based upon that representation by the petitioner at this time.

MR. ALARI: There would be an 1118 motion to dismiss both counts against the minor Jerro.

THE COURT: Any argument, Mr. Levitin?

MR. LEVITIN: I have none to make.

THE COURT: Granted.

MR. ALARI: Thank you, Your Honor.

THE COURT: All right, is there any other matters pending

[367] against the minor Jerro at this time? Is he to be detained on any other matters or is he wanted on any other warrants?

MR. ALARI: Not to my knowledge.

MR. LEVITIN: Minor is not active on any probation.

THE COURT: Is there a suitable placement order? What's the last order?

Well, while we are proceeding with the other matter, counsel, I will ask Mr. Hanaway to check back, and if he is active on probation, give the probation officer a call.

MR. HANAWAY: No, Your Honor, he is not under — he is just home on probation.

MR. ALARI: May I be permitted to withdraw at this time?

THE COURT: Very well.

MR. ALARI: Very well, Your Honor.

THE COURT: Is there anything further — oh, there is nothing further on the Christman statement until the witness is called back, is that correct?

MISS RICE: Yes.

THE COURT: You want to recall Sergeant Miller to the stand and let's proceed on direct examination and other evidence?

MR. LEVITIN: Your Honor, the only other testimony that I intend to elicit from Sergeant Miller at this time is with regard to substantive matters contained in Mr. Michael Christman's statement, so —

THE COURT: Well, at this time we can proceed with some other items?

MR. LEVITIN: There is nothing else we have to present at

[368] this time, Your Honor. The only other items we talked about presenting on Monday, substantive item with regard to Mr. Christman's statement, and that's the extent of it.

THE COURT: Other than Sergent Miller's previous testimony concerning the Datsun, you have no other evidence on the car?

MR. LEVITIN: Just — I intend to direct the court's attention to the petition against Mr. Christman and the statement, I believe of Mr. Alex Childs that appeared here in court, that he was in fact the stepfather of Michael Christman. I believe that occurred on one of the first days of trial.

THE COURT: I wasn't — I didn't have the photograph before me. It hasn't been offered. Have you established whether or not the Datsun is the same license number?

MR. LEVITIN: I am sorry. The court doesn't have the benefit of knowing that the photograph of the Datsun portrays the license number affixed to the Datsun.

I would suggest that we can adjourn at this time.

THE COURT: All right, we will adjourn until Monday morning at 9:00 a.m. I want to know from the Jerro's probation officer if there is any — are there any violations of probation or anything else, so we can release the minor?

MR. KAUFMAN: Your Honor, can I be heard for just a moment. I am supposed to start a jury trial on Monday in Van Nuys.

THE COURT: You better call him.

MR. KAUFMAN: I have already given the District Attorney's Office that indication. Does it look — what we are aware of — we

[369] might complete this matter on Monday in the afternoon?

THE COURT: According to District Attorney's representation, they have no other evidence except Christman's — the offer of Christman's statement. We can't proceed with that until Miss Rice has her witness here.

MR. LEVITIN: I don't know what defense matters are.

THE COURT: I don't know how many witnesses

you have on defense — pretty good indication that the petitioner's evidence should practically be completed —

MISS RICE: Your Honor, I think that if we could argue the statement Monday morning, that I would be in a position at that time to know exactly what my position would be. I can't represent to the court at this time how long it would take. I think that the court's ruling on the statement will be pretty much — will dispose of the case.

THE COURT: Well, it looks like it might be a good chance it will be completed Monday.

All right, we will adjourn at this time with the exception of the Jerro matter, he will have to remain in court until — in the courtroom until we have checked this situation out. The other minors and parents are ordered to return Monday morning.

(At 3:46 p.m., a recess was taken until Monday, April 12, 1976, at 9:00 a.m.)

[370]
LOS ANGELES, CALIFORNIA,
MONDAY, APRIL 12, 1976; 9:50 A.M.
DEPARTMENT 203
BONNIE LEE MARTIN, JUDGE

Appearances as heretofore noted.

THE COURT: We will resume in the companion matters of Michael Dennis Cooke and Michael Christman. Record will reflect both minors are present with counsel, third minor, as to Jerro, petition has previously been dismissed pursuant to an 1118 motion.

MR. KAUFMAN: Your Honor, if I may be heard just briefly? The end of last week the court ruled on my motion to keep statements made by Michael Cooke and things were coming quite fast and furious at the time. At this time, after reviewing all of this evidence I have, I would move for a dismissal based on the reports that Michael was not afforded an opportunity to have a separate trial, nor was I given an opportunity to prepare a transcript of the two tapes that the court had an opportunity to listen to.

I believe that the fashion under which I was forced to present the evidence as far as the tape was concerned was extremely prejudicial to my client, and if I had an opportunity to present it by way of transcript which was an Arandized version, it would have been sufficiently to his benefit to do so. I would make the motion for the record.

THE COURT: Motion for mistrial is denied. You may proceed, Mr. Levitin.

[371]MR. LEVITIN: Your Honor, I think we are prepared to argue the admissibility of the Christman statement at this time.

MISS RICE: Your Honor, I would like to call Charles Christiansen on that issue.

[371] THE COURT: Very well.

CHARLES P. CHRISTIANSEN,

called as a witness on behalf of the minor Christman, was sworn and testified as follows:

THE CLERK: You do solemnly swear that the testimony you may give in the cause now pending before this court shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Take the stand and state your full name for the record.

THE WITNESS: Charles P. Christiansen, C-h-r-i-s-t-i-a-n-s-e-n.

DIRECT EXAMINATION

BY MISS RICE:

Q. Mr. Christiansen, what is your occupation?

A. I am a probation officer for the County of Los Angeles.

Q. And what is your relationship to Michael Christman?

A. Michael was assigned to me after he finished a stay in probation camp.

[372] Q. And when did you first get to know Michael?

A. I met him first approximately April of last year, may have been March. Officially, Michael was assigned to me when he graduated from camp last May.

Q. How long have you been with the Probation Department?

A. Eleven years today, as a matter of fact.

Q. Now, what kind of supervision was Michael under with you since he was released from camp?

A. Could you —

Q. What is the nature of the program that Michael is in with you.?

A. I am in Intensive Camp After-care Program, which accepts boys, only boys from probation camps at the time of their completion of their program.

Q. Now, approximately how often during the time that Michael was assigned to you, did you see him?

A. That would vary, given a situation and circumstances at that moment. It hasn't been — there has never been any time where there has not been a contact any longer than two weeks. Frequently with Michael, the contact has been numerous times in one week, and on some occasions it was all day.

Q. Now, have you counseled Michael as to family problems?

A. Extensively, yes.

Q. What have you instructed him to do in relation to you in regards to family problems?

A. At any time he has a concern with his family, that [373] he has a concern for his mother or stepfather, has a concern with what he is doing or some change that's occurring at that time, I directed him to contact me right away, if not to discuss it, to at least keep me informed of what was going on.

Q. Now, as to any problems Michael might have with regards to police, what have you — getting into law violations — what have you instructed him in that regard?

A. Similar type of instruction, except a little bit stronger. I have instructed Michael that at any time he has a police contact, even if they stop him and talk to him on the street, he is to contact me immediately.

Q. And do you recall specifically instructing him or having a conversation with him about that? Have you ever — Let me rephrase that. Have you ever had occasion to criticize him or get angry with him for not following that procedure?

A. Could you rephrase that? Has there been a situation —

MR. ALARI: Has Michael ever had a contact with the police and not contacted you?

A. Yes, I believe in November — it may have been the latter part of October — there was a police contact that resulted from a possession of marijuana charge on school grounds, and Michael didn't contact me right away following that. When I did finally find out about what had happened, it was the school who contacted me, and I was somewhat — I bawled Michael out for not getting in touch with me and informing me himself of what had happened.

Q. And was that in November?

[374]Q. I'd have to look at the matter again through my books, but it was either the last part of October or beginning part of November.

MISS RICE: Thank you, I have nothing further.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. LEVITIN:

Q. Now — thank you, Your Honor — isn't it true, Mr. Christiansen, the reason you want him to contact you in case there is any difficulty with the family is so that you can counsel him and help him so that these times of conflict are avoided in the future?

Q. I am sorry, I didn't —

THE COURT: Please re-read the question.

(Question read.)

A. That's yes or no, and partially correct.

Q. BY MR. LEVITIN: And you also have the additional idea, I suppose, to help him be able to handle conflicts of that type, is that correct?

A. That would be the other part of it, not only do I want him to learn to deal with it in the future, but at the

present time accepting that he is going through problems. I want to be there so that I can also instruct and teach him how to handle it, and also how to resolve the current situation.

Q. And isn't it true that that's very much the same type of motivation you have in asking him to contact you in the event that he's contacted by a police agency?

[375]A. Well, again, that's — it's not a straight answer. It's a yes and no. That's partially correct.

Q. What are your other purposes?

A. Well, it's also that I want to find out from him as his own responsibility in contacting me to inform me of what's happened. That's part.

Q. You think this will assist him in learning to face up to his responsibilities, is that correct?

A. That's true. There are other reasons. Also, many times the kids don't understand what is going on, and what they are supposed to do relative to police, and relative to myself.

Q. Now, you feel that you can assist them in making those things clear to both themselves and to the police agency, if possible?

A. Ordinarily the police agency understands. Sometimes, the boys don't and sometimes they do understand what they're supposed to be doing.

Q. Have you ever told Michael if he is contacted by a police agency that he should "clam up" or anything such as that?

A. I haven't used that terminology.

Q. What type of terminology have you used?

A. I have recently instructed him, especially relative to myself being that I also am a peace officer on some occasions, and also with other — on the current matter?

Q. I am talking about previous incidents before this.

A. That he is not supposed to talk to police?

Q. Have you ever told him he is not supposed to talk to
[376] police?

A. Not in those words. What I have instructed —

Q. You don't see — take that as part of your responsibility as a probation officer, Mr. Christiansen?

A. What I have instructed is that he is not to go and admit openly to an offense, that he is supposedly to get some type of advice from either his parents or a lawyer. That's pretty much true with all the boys. Michael isn't an exception to that.

MR. LEVITIN: I have no further questions.

THE COURT: Any redirect?

MISS RICE: Nothing.

THE COURT: You may step down, Mr. Christiansen.

Miss Rice, Do you have any further evidence?

MISS RICE: No, on that issue. I would reserve for argument.

THE COURT: In connection with the foundation?

MISS RICE: Yes.

THE COURT: Petitioner have any additional evidence on foundation?

MR. LEVITIN: None, Your Honor.

THE COURT: Arguments?

MISS RICE: Your Honor, I believe that the case law as to what amounts to an invasion of one's Fifth Amendment Miranda rights in this case would indicate that Michael is asking to speak to a probation officer. It is really an invocation of his Fifth Amendment rights under Miranda.

Now, the case of Miranda of course holds that if an
[377] individual indicates in any manner at any time prior to or during questioning that he wants to remain silent, then the interrogation must cease. Of course, in Supreme Court — People vs. Burton amplifies that as relates to minors.

Now, in that case, that case is very often referred to in terms of asking for a parent example equivalent to asking for an attorney; however, that isn't exactly what the court held The court held on the Fifth Amendment grounds that in that case the minor asked to see his parents. The court held that by asking to see his parents was really invoking the Fifth Amendment privilege. It was showing an unwillingness to participate or continue in the interrogation and showed that he did not want to discuss the case fully and completely at that time.

Now, the Burton case relies on — in a very large part on the case of *People vs. Randall*, which is 1 Cal.3d 948, and in that case the court held that a phone call to an attorney demonstrated a desire to invoke the Fifth Amendment showed an unwillingness to talk at that time, and that was crucial in that case.

Now, Randall went further to state, "Suspect may indicate a desire to invoke the privilege by means other than an expressed statement to that effect." You don't have to say, "I do not want to talk to you," or "I do not waive my rights." Any conduct which reasonably appears inconsistent with the present willingness on the part of the suspect to discuss his case freely and completely with the police at that time must be held to amount to an indication of the Fifth Amendment right, and
[378] in this case we have Michael who is not asking for his parents, not indicating a desire to stop talking by asking for his father or his mother; however, he is asking for his probation officer.

I ask the court to take judicial notice of the fact that Michael is a ward of the court. Custody and control has been taken away from the parents and placed in the hands of the probation officer. I think the probation officer has indicated that he has a close supervision relationship with Michael. He is acting as Michael's guardian. He is counseling him on a family situation, which is bad. In this

case, as in the Burton case, he is asking for someone to help.

Now, I would refer the court to the transcript. I believe it is —

THE COURT: Just while the court's listening to argument, give me the Burton citation again, counsel, Court has read it, but I would like it.

MISS RICE: Burton, 6 Cal.3d 375.

THE COURT: All right, you may proceed.

MISS RICE: The court has, of course, held in a number of cases — there is a line of cases, they are cited in Burton — that the types of behavior, the types of indication that can be given other than express statements, and in *People vs. Ireland*, the defendant was in the car on the way to the police station. This is before he had even been advised of his rights. He said, "Hey, call my parents to get me an attorney." That's the only statement he made after he expressly waived his rights and made a statement. [379]The court held that particular statement, even though it wasn't an interrogation situation, it was earlier, "Tell my parents to call an attorney," At that point, he indicated that he did not want to sit down and freely and voluntarily discuss the situation, and of course, Fioritto, which is 68 Cal.2d 714. It was a situation where he refused to sign a written waiver, was confronted with co-defendants at a later time. Well, then, following that, made statements and fully waived his rights, but that was initial failure to waive. He then, after the confrontation, changed.

Now, the Randall case is very specific as to the protective measures of Miranda of what they mean, and what they're for, and to strictly limit the manner in which a suspect may assert the privilege, or to demand that it be invoked with unmistakable clarity, resolving any ambiguity against the defendant would subvert the protective features of Miranda.

The Burton case is dealing with a minor as opposed to an adult. I think the language of Burton is very constructive as to what the court meant when it held that calling or asking for one's parents is an invocation of a privilege. Court refers to it as a cry for help.

Minor is confronted with an interrogation situation. He is there with the police. He reaches out for the only person he can think of, which is that case were the parents, and the court states:

> "It appears to us most likely and most normal that a minor who wants help
>
> on how to conduct himself with the police and wishes to indicate that he does not want to proceed without such help would express such desire by requesting to see his parents. For adults, removed from the protective ambit of parental guidance, the desire for help naturally manifests in a request for an attorney. For minors, it would seem that the desire for help naturally manifests in a request for parents, but it would severly restrict the protective devices required by Miranda in cases where the suspects are minors if the only call for help which is to be deemed an invocation of the privilege is the call for an attorney. It is fatuous to assume that a minor in custody — "

Your Honor, I don't have the exact pages of the Xerox, and I don't have the page numbers to refer the court to which the fifth page is from.

THE COURT: Do you have a headnote?

MISS RICE: Yes, it is under 2. It is the second paragraph under 2 —

> "fatuous to assume that a minor in custody will be in a position to call an attorney for assistance, and it is unrealistic to attribute no real
>
> [381] significance to his call for help from the only person to

whom he normally looks — a parent or guardian."

In this case, the guardian is Mr. Christiansen. He is the representative of the Probation Department. This minor is a ward of the court. Mr. Christiansen is the adult to whom he looks for help. That's who his custody and control has been placed in by the court.

The court also states, "It is common knowledge that this is a normal reaction of a youthful suspect who finds himself in trouble with the law."

I think that the situation where a youth in trouble with the law who's been counseled by his probation officer, "Contact me when you are in trouble — always contact me," and who in fact has been bawled out by his probation officer when he didn't follow that procedure, and in the transcript, I think it is quite significant. We look on page 2. "Do you want to give up your right to have an attorney present here while we talk about it?" Immediate response, "Can I have my probation officer here?"

He wants someone he can trust, and the officer says, "Well, I can't get your probation officer. You have a right to an attorney," and at that point he repeats it. That was the part that was marked unintelligible. "Well, how do I know you won't bring in a policeman and tell me he is an attorney?"

In other words, "I can't trust you. I can't trust you to bring me someone and say he is an attorney that's not a [382] police officer."

Now, the case of *Bryan vs. Superior Court*, which is 7 Cal. 3d 575. The court discusses the relationship of the probation officer to a probationer, and in that case, that was a Juvenile case holding that statements made by a minor to a probation officer cannot be used against the minor in court, and the court discusses the very, very — virtual importance of a closed confidential relationship of the minor to the probation officer in a Juvenile Court

process, and states that "These rules for confidence shall implement the beneficial purpose of a probation interview." The court discusses the protective — he uses the words "protective and rehabilitative philosophy of Juvenile Court law;" that if admissions to a probation officer were admissible against a juvenile in court, then that would discourage candor and contrition and would subvert the confidential relationship of a probationer, a juvenile and the Probation Department.

The Probation Department stands in a position of parens patriae with the juvenile in this case. We have Mr. Christiansen who is a guardian assigned by the court as Michael's guardian.

In addition, I believe that he is a counselor. He counsels Michael. He has counseled him on other occasions. He has had him in his office and at no time has more than two weeks gone by. He said often it's been as many times as three or four times a week, and his job, his duty as guardian is to counsel Michael.

I would submit that asking for — asking for his [383] probation officer, and in this case according to the transcript it is a specific person he wants. The officer goes on. Your probation officer is Mr. Christiansen, and he states, yes, they knew who the probation officer was. This wasn't just some obscure notion. He wanted someone there that he could trust. He couldn't trust the police, or he didn't feel he could trust the police to give him someone who was an attorney, but he did know that he could trust Mr. Christiansen, just as in the Burton case, the minor could trust his parents, and he had a confidential relationship.

I submit that the probation officer was somewhat in the position of an attorney, and significant that it comes up in the interview at exactly the time that an attorney is asked for. His response is he doesn't answer the questions,

if he gives up the right to have an attorney. He says, "What about my probation officer," and I think as an adult who counsels, that in the eyes of the minor the probation officer in a counseling relationship, when he is in trouble with the law adults are told over and over by their attorneys, "If you get in any trouble, call me immediately; call my exchange; call me." This is always what adults are told.

In this case, this minor was told by his probation officer, "When you are in trouble, call me." and that's just what he did. He made a cry for help every bit as strong as the cry for help discussed in the Burton case, and in this case, this minor apparently is not as close or as trusting of his parents as he is with his guardian, and with the Probation Department representative, Mr. Christiansen, and I think it is

[384] clear that when he asks for his probation officer, it is indicative of the fact that he didn't want to go on and talk — went through much discussion, "Well, you can talk to him later."

The point was Michael didn't want to talk at that time, and according to Randall, the important factor is that any conduct which reasonably appears inconsistent with the present willingness participation of the suspect to discuss his case freely and completely with the police is an invocation.

I submit that asking for his probation officer was such an invocation. It was the duty of the police to cease interrogation at that time.

The Burton case states that, "The petitioner has the burden of affirmatively showing that that was not the intent of the minor." In that case, the petitioner — the case ultimately was in adult court — was the People's argument that the request did not give clear notice that the minor was asserting the Fifth Amendment right, since the request could have been for many purposes. The court rejected

that, rejected that statement, said that that argument had already been rejected in Randall; that the People had the burden of affirmatively showing that that was not the intent and the second argument put forward by the People in that case was that because the request occurred before the rights were given, that the police wouldn't understand it was as in Burton, minor asks for his parents, was then advised of his rights, and then a statement was made. He stated that the police couldn't be expected to understand that his request for parents was a request to remain

[385] silent. Court dismissed that there was no merit to that.

In this case, we have an even stronger indication he asserted his desire to invoke the privilege. In the midst of questioning, the request was made at exactly the moment when he was asked if he wanted an attorney, and his immediate response was, "I would like the probation officer. Can I have my probation officer here," a specific person, his legal guardian.

I submit to the court that the request almost exactly on point with the Burton case requesting his probation officer. I think it is even stronger than the Burton case in that it follows immediately by asking if he will give up a right to have his attorney present, the fact that he obviously did not believe that he could put any faith in the adults he was with.

On page 3, there is a statement about, "Well, we don't always play fair, do we," and he goes on to say, "No, sir." Then the whole line of discussion along there is that it's obvious that the only person he feels that he can trust, the only adult that he can reach out for help is Mr. Christiansen. He asks for Mr. Christiansen. That request was denied.

Your Honor, I would also just refer the court to the — on page 14, the minor also made the statement, "Hey, man, tell nobody what I have been telling you." The

response was, "No way, no way."

I think this further indicates that there is an indication that the minor did not understand the nature of the rights, that he did not understand why anything he said would be used against him since he asked, "Well, you are not going to tell

[386] anybody there?" "No, no way, no way," obviously misleading, obviously shows that he had no comprehension of the rights as explained to him.

He attempted to invoke his rights, remain silent. That was not done.

THE COURT: This — state the page number again, of the transcript?

MISS RICE: That was page 14. We stipulated as to that testimony, I believe, the part that was unintelligible.

Further, I would point out to the court the Welfare and Institutions Code section 626(c) in which the various options are open to an officer when a minor is taken into custody, and an officer who takes a minor into temporary custody under the provisions of Section 625 shall thereafter proceed as follows:

> First option, "He may release the minor;"
>
> Second option, "He may cite the minor to reappear;"
>
> The third option, "He may take such minor without unnecessary delay before the probation officer of the county of which the person was taken into custody, or which such person resides,"

and it continues on, and I would submit that that section, the request for a probation officer is really right in line with that section.

He's requesting that his probation officer be notified, that he be turned over to the Probation Department.

[387]Now, it is the philosophy of the Juvenile Court system is that minors be handled by the Probation Office rather than by the usual criminal system of adults.

I think 627 is also indicative when an officer takes a minor before a probation officer, Juvenile Hall, or any other place of confinement, he shall take immediate steps to notify at the time the minor's parents, guardians, and/or responsible relative. I think that the officers in that case made no attempt to contact Mr. Christiansen after the request, and I think that the philosophy of the Welfare and Institutions Code, the Juvenile system, shows how important it is, the role of the probation officer is in this whole process.

I think that Michael recognized that at the station. He recognized how important his probation officer was to him, how much he needed his probation officer at that point when he was in trouble, when he didn't understand what was going on, and his request was denied and statements were elicited from him.

It was clear that at that time he wanted someone there he could trust. He didn't ask for an attorney, but I think for a 16-year-old, the person he did ask for is a person very close in his mind to a parent, and to an attorney. We don't often think of attorneys any more as being counselors, but that is the historical role of an attorney, and I think that his request for a probation officer, number one, shows that he does not want to talk. That's exactly the cry of help discussed in Burton.

Secondly, he wanted to have someone that he could [388] trust, a person who could help him, a person he had a confidential relationship with. It would he his probation officer.

I submit that any statements taken after that were done in violation of these protective safeguards that have been set down, and the petitioner has the burden of proving otherwise.

THE COURT: Thank you. Mr. Levitin?

MR. LEVITIN: Thank you, Your Honor. Your

Honor, counsel has referred to two cases, one of which is the Miranda case. It stands for the proposition that the defendant, when arrested, when he asks for an attorney is entitled to have an attorney present; refers to the Burton case, which says that a parent is also in the same position with regards to a minor child, but there is no case that counsel has referred to, nor is there any case in the State of California, or so far as I am able to determine in the United States which says that a minor or anybody has a right to have his probation officer there.

I am sure we would hear counsel urging, if minor had asked for a good friend, the minor would have a right to have a good friend there, or practically anybody, any name would be an invocation by this minor of his Fifth Amendment rights. I don't think the law has reached that point. I don't think the law will reach that point.

No matter how counsel wishes to manipulate various statutes and various cases, their holdings, there is no case which says that a parent can be substituted for a probation officer in all particulars. I think what we have to do is we [389] have to read these few pages very carefully and determine whether or not the minor is in fact asking to remain silent, whether he is invoking his rights or not, and on page 2 at line 24, the answer is evident, could not be made clearer. There is no way that anybody can say what the minor is trying to say in those words any clearer that the minor said them.

He said, "Yeah, I want to talk to you." I think we have stipulated, am I correct, that the unintelligible is, "I want to talk to you," is that correct?

MISS RICE: Yes.

MR. LEVITIN: All right, and that's after everything had gone before. It is obvious that the minor did not want to know about his probation officer, but that in no way according to what I read this indicated that he didn't want

to talk to the police officers. He just wanted to know whether or not he could have his probation officer there, whether he could call his probation officer, and the officer is within his rights when saying, "No, no, I am not going to call Mr. Christiansen tonight. There is a good chance we can call him tonight, but I am not going to call him right now.," Then he gets to the point of the attorney. "If you want to talk to us without an attorney present, you can. If you don't want to, you don't have to, but if you want to say something, you can. If you don't want to say anything, you don't have to. That's your right. Do you understand that right?" The minor answers, "Yeah."

"Will you talk to us without an attorney present?" The question is, "Is that clear," unequivocable statement, [390] "Yeah, I want to talk to you," and I think everything after that is just a complete waiver of the rights.

THE COURT: All right, any reply?

MISS RICE: Your Honor, simply that Burton case does not hold that minor has the right to have his parents present. Burton case did not equate presence of the parents with presence of attorney. I am not urging that this minor had the right to have his probation officer present at that moment.

The holding of Burton on Miranda grounds, in my argument is on *Miranda* grounds, and on Randall grounds that by asking for the probation officer is indicating he did not wish to speak at that time. That is the reason of the court in Burton, and I feel should be the reason of the court in this case, right on point with Burton as to request to have an adult present, it is an indication that is a call for help, indication he did not wish to speak at that time.

THE COURT: I think it is a factual question in each case as to whether the minor is indicating that he does not want to give up his right to remain silent or just what the purpose of the statement is.

I point out at page 2 of the transcript that prior to asking, "Can I have my attorney or my probation officer

here," the minor does state, "Yeah, I might talk to you." It seems to me that the statement both before and after the question whether he can have his probation officer here indicates pretty clearly that the minor is willing to talk without the probation officer or without the attorney.

Sergeant Miller apparently has gone on to — after [391] the question, "Can I have my probation officer here," he has gone on again to re-explain the right, "If you don't want to talk to us, you don't have to. If you don't want to say something, if you want to say something, you can. If you don't want to say something, you don't have to. That's your right. Do you understand?"

The minor says, "Yes." He explains that, "We can talk to the probation officer later, but I am not going to call him right now," and it seems to me we are dealing here with a 16, 16 and a half year old minor who has been through the court system before, has been to camp, has a probation officer. We are not dealing with a young, naive minor with no experience with the courts. I just do not construe it in this case as an indication of the privilege.

In Burton, as you recall, the parent was present in the police station and had requested to see the minor, and the minor had several times requested to see the parents, and while they don't set forth the conversation or the interrogation that occurred in Burton, one certainly gets the impression from reading the decision that the minor was just kind of worn down. I don't see that in this case at all. The statement, "Can I have my probation officer present," occurs right at the outside of the conversation. There is no evidence of any lengthy prior interrogation or anywhere keep having to — or they keep pursuing a substantive offense prior to a waiver of a right. It seems to me there is a clear waiver at the outset in this case.

The court denies the motion to exclude the conversation.

[392]MR. LEVITIN: I believe Sergeant Miller was on the stand, Your Honor.

STANLEY L. MILLER,

recalled as a witness on behalf of the petitioner, resumed the stand and testified further as follows:

THE CLERK: You have previously been sworn. State your name again for the record, please.

THE WITNESS: Stanley L. Miller, M-i-l-l-e-r.

MR. LEVITIN: If I can have a moment to speak to counsel? Can I have the transcript of the expurgated version of the transcript?

THE COURT: Of Christman? Petitioner's 18.

DIRECT EXAMINATION (continued)

BY MR. LEVITIN:

Q. Sergeant Miller, I am showing you Petitioner's 18, this transcript of what purports to be Michael Christman's statement. Have you had an occasion to read either that copy or the original of that copy?

A. Yes, Sir.

Q. And is that a true and accurate copy of the statement made by the minor Christman?

A. Yes, sir.

MR. LEVITIN: And, Your Honor, at this time I'd like to have marked as Petitioner's next in order one sheet of paper.

THE COURT: Petitioner's 19.

MR. LEVITIN: I will mark it on the reverse side.

[393]MISS RICE: Your Honor, could we just incorporate by reference the changes that we agreed to earlier as to what was said? Is that then incorporated in that transcript, the changes we went through on Friday?

THE COURT: The ones that you stipulated to, the court has made those changes by interlineation pursuant to counsel's stipulation, that is correct.

MISS RICE: All right, fine.

Q. BY MR. LEVITIN: Let me show you what has been marked as Petitioner's 19, this document. Would you look at this for us, please, and tell us whether or not you have seen that document before today?

A. Yes, sir, I have.

Q. Could you tell us how it was deduced?

A. Okay, on the top of the document it says, "By Michael Christman," with the date 2-4-76, 1930." This was placed on this document by myself.

Below that, towards the top of the page, is a diagram. This diagram shows, or this diagram is a diagram drawn by the minor Michael Christman in my presence while I was questioning him.

Q. And you have gone through the statement, Petitioner's 18 —

A. Yes, sir.

Q. — and correlated that statement with the position at which Mr. Christman was referring to the diagram that he was producing?

A. Yes, I believe it was Thursday here in court, I [394] placed the word, "Page 24, line number 1," towards the bottom of this page which is —

THE COURT: Is that a reference to Petitioner's 18, the transcript?

MR. LEVITIN: Yes, it is a reference to Petitioner's 18.

Q. And if you would at this time look to page 24, line 1, and indicate for us what the petitioner or what the minor was doing at the time that he was drawing that diagram with reference to that page, if you would.

A. Okay, I'd be asking Michael Christman questions in regard to the homicide that occurred 1-19-76 at 8939 Lemona Street. I asked Michael Christman if he could draw me a picture of what he was talking about, and at that

point he stated, "All right," that he used this piece of paper and a pen. He said, "Here is a room here," and that front door is right here. I was in the bushes here."

Q. All right, while you are doing that, could you show us on the diagram, indicate on the diagram what he is indicating with the pen.

A. He indicated, he said, "Here is a room here," indicating this part in here (indicating).

THE COURT: I wonder if we might — do you have another colored pen where Sergeant Miller could draw a line extending out from the diagram and mark that?

Q. BY MR. LEVITIN: When he said,"Here is a room here," you indicated a position somewhat within the rectangle that he drew. Could you draw an x at that location?

THE COURT: Why don't we simply put a — draw a line out and

[395] put the word "room." That would key it out better.

MR. LEVITIN: All right, thank you.

THE COURT: Record will reflect Sergeant Miller is marking the diagram with a red pen to distinguish his drawing from the minor Christman's.

Q. BY MR. LEVITIN: And then he said,"And the front door is right here." Where did he indicate the front door?

A. Okay, on that —

THE COURT: You are making that position "door"?

A. Front door with an arrow pointed to an opening.

Q. BY MR. LEVITIN: And then he said, "I was in the bushes here." Would you indicate the position where the bushes were?

A. He indicated to it, but he didn't draw it on the map.

Q. And then he goes on and he says a little later on, and he said, "And then the garage door comes out." Did he

indicate the garage door on the map?

A. Yes.

Q. Perhaps it would be easier if you tell us what he did indicate on the map when he talked to you instead of my doing it this way?

A. He pointed to that portion rather than drawing anything in it.

Q. What did he point to?

A. He pointed to this area.

THE COURT: You are marking that how?

THE WITNESS: Pointed to the garage.

[396]MR. LEVITIN: Okay, thank you. I have no further questions of the witness.

THE COURT: Counsel, do you have any other questions to be asked during the course of trial on direct of Sergeant Miller rather than we handle the entire matter almost piecemeal, but as relating to each of the conversations, but if he has any other evidence to give, I think we might proceed at this time.

MR. LEVITIN: No, no, that's all the questions I have on any subject matter.

CROSS-EXAMINATION

BY MISS RICE:

Q. Sergeant Miller, when you examined the Yeager residence the evening of January 19, isn't it true that you found no evidence of ransacking?

A. Yes, that is true.

Q. And no evidence at that time of anything missing, isn't that correct?

A. That is true.

Q. During your conversation with Michael Christman, did he cry during that time he was making certain admissions to you?

A. Not that I recall.

MISS RICE: May I have a moment?

(Counsel conferring at the counsel table.)

MR. LEVITIN: Your Honor, petitioner is agreeable to stipulating that beginning at page 16 and continuing through

[397] some additional page, page and a half, is that correct, counsel, there was some sound that seemed to be sniffling or crying on the recording.

MISS RICE: I don't think we need to rehear, Your Honor.. On page 16, line 6, a statement is, "Wait a minute," and at that point you can hear sniffling, and there is a rather lengthy pause in it there. The transcript reflects "pause in recording," and there is a pause at that time, and you can hear sniffling throughout that. On line 24, line 25, "No audible answer," and you can hear this continuing on.

I believe it is beyond the — it's about a page and a half or two pages that it is audible on the tape.

THE COURT: Very well, court accepts the stipulation.

MISS RICE: I have nothing further.

THE COURT: You have any questions, Mr. Kaufman?

MR. KAUFMAN: No, Your Honor.

MR. LEVITIN: Petitioner offers the evidence heretofore marked as —

MISS RICE: Your Honor, I am sorry, I do have one question.

THE COURT: The court has a couple of questions. Perhaps I can ask those now and give you an opportunity for further cross-examination.

Where was the minor Michael Wayne Christman arrested, Sergeant?

THE WITNESS: Your Honor, I did not arrest him. The exact location, I would have to refer to my report, but near his home or at his home. It was up in the Lakeview Terrace area

[398] where he lives.

THE COURT: Did you ever go to Michael's home on any occasion?

THE WITNESS: I did not myself, no, Your Honor.

THE COURT: Did you ever see his stepfather, Alex Childs, at the station or at any time following the minor's arrest?

MISS RICE: Your Honor, I would object to the reference to Mr. Childs as stepfather.

THE COURT: It is judicially noticed a part of the file.

MISS RICE: The court did allege additional notice that as part of the file —

THE COURT: It is alleged and not denied in the petition. Minor's address is also part of the file, part of the petition.

MISS RICE: Well, Your Honor, I would object at this time to the court judicially noticing that. That is prepared by the Probation Department. I am sure the court is aware how often those factors are mistaken on the petition. I don't believe it has been established other than by hearsay as to what exactly the nature of who Mr. Childs is and what his relation to this minor is.

MR. LEVITIN: I think I recall being present in court at one time. I think it was in this department when Mr. Childs was here and answered to that call. Am I mistaken in that?

MISS RICE: We can check the record. I don't think he

[399] was ever in court.

THE COURT: He was not in this room. Only Mr. Christiansen, the probation officer, was here from the outset.

MR. LEVITIN: Oh, I see.

THE COURT: Well, perhaps we could simply — maybe we can recall Mr. Christiansen concerning the minor's home, and court will withdraw its question of this

witness. Did you have an additional question?

MISS RICE: Not at this time.

MR. KAUFMAN: I have nothing further.

THE COURT: You may step down.

MR. LEVITIN: I will call Mr. Christiansen.

CHARLES P. CHRISTIANSEN,

called as a witness on behalf of the petitioner, having been previously sworn, resumed the stand and testified further as follows:

THE CLERK: Please take the stand. You are still under oath.

THE COURT: State your full name?

THE WITNESS: Charles P. Christiansen.

MISS RICE: Your Honor, I would object at this time in that the court — respectfully would submit that the court is prosecuting the case at this time. I believe it is improper. I would object to the court calling Mr. Christiansen.

THE COURT: The court is not calling Mr. Christiansen. You may proceed.

MR. LEVITIN: All right, thank you.

[400] DIRECT EXAMINATION

BY MR. LEVITIN:

Q. Mr. Christiansen, you have been Mr. Christman's probation officer for approximately a year and a half, is that correct?

A. Yes.

Q. And has he told you of his home address?

A. Has he told me of his home address?

Q. Yes.

A. Yes, I have been there many times.

Q. All right, and what is that home address?

Q. 12232 Van Nuys Boulevard, Lakeview Terrace.

Q. Have you met members of his family while at that address?

A. Yes, and also in my own office.

Q. And have you met a person identified to you by himself as Alex Childs?

A. Yes, I have.

Q. Is that person living at that same address, 12232 Van Nuys Boulevard, Lakeview Terrace?

A. Yes, he does.

MR. LEVITIN: I have no further questions.

THE COURT: All right, anything further?

Q. BY MR. LEVITIN: Is that a single family residence?

A. Yes, It is.

MISS RICE: Could I have a moment, Your Honor?

Your Honor, could I see the court's copy of the court's petition? Mine is ripped off from the rest of my papers.

[401] I am unable to find it.

I have nothing further.

THE COURT: Anything further?

MR. LEVITIN: No, nothing further of the witness.

Petitioner now offers into evidence all the matters heretofore marked as exhibits, Your Honor, with the exception of the originals of the two statements, one by Christman and one other by, I guess it was Jerro or Cooke.

THE COURT: Jerro.

MR. LEVITIN: And that's all.

THE COURT: Now, let me just see if I understand. Those matters included are Christman's original — transcript of his original statement was Petitioner's 16.

MR. LEVITIN: Yes, I believe that's correct.

THE COURT: That one you are not offering?

MR. LEVITIN: No, not into evidence.

THE COURT: Was there some other one?

MR. LEVITIN: I believe Jerro's.

MR. KAUFMAN: Jerro's, it was just submitted to

the court to allow her to read the original Arandized —

MR. LEVITIN: All right, so it's just Christman's original; however, we have the Christman's expurgated excised version.

THE COURT: Which is Petitioner's 18. All of Petitioner's exhibits marked for identification, with the exception of Petitioner's 16, will be received in evidence.

MR. LEVITIN: Petitioner rests.

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES SITTING AS A JUVENILE COURT

DEPARTMENT NO. 203
HON. BONNIE LEE MARTIN, JUDGE

In the Matter of

(1) Michael Wayne Christman,	(1) No. 466633
(2) Michael Cooke,	(2) No. 503635
(3) Robbin Jerro,	(3) No. 494734

all persons under the age of 18 years.

PARTIAL REPORTER'S TRANSCRIPT OF DISPOSITION HEARING CONDUCTED ON MAY 10, 1976[4]

Q. [By Miss Rice] [439] Basically what have you talked to him about in regards to what happened?

A. [By Charles P. Christensen, Probation Officer] I've talked to him about factually what happened, "Describe to me point by point what you did, what the other boys did."

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[4](Reporter's Transcript, pages 439, line 3 through 440, line 14.)

I've also talked to him about how he saw himself in that. Michael's openness about his involvement in it was so open, so candid that it was a problem in the beginning. He wanted to relate to me and wanted to talk about the incident before the adjudication, and I had to tell him numerous times that I didn't want him talking to me about that point, that he hadn't been — his adjudication hadn't been completed; and that I — part of my function is a peace officer. Michael's emotional response to the incident I think that may be what you're referring to, the first time I saw Michael on the Friday after he was arrested which was before the detention hearing he cried. I'm not really sure whether I can say that that was because he felt guilty, whether it was remorseful. I'm not real sure. I know that he spent most of the time crying. He has on other occasions also with the police when the police were talking to him, at the time of the incident when he started describing it on the tape, and I'm guessing it sounds like he's crying on the tape. This I see as important, especially in light of that Michael's own family, his mother, his older sister, his younger brother, and his younger sister described Michael

[440] as not crying any time before even when he hurt himself he doesn't cry, and this is ever since he's been a little boy.

THE COURT: I am beginning to lose sight of the question. I think she wanted to know what Michael had said about his involvement in the incident.

Q. BY MISS RICE: And his response, his concept of what happened.

THE COURT: See, the Court has heard the tapes and I have read what is in your report; so I am aware of the fact that Michael was crying at the time he talked to the police officers.

Let's just have what if anything Michael told you about his involvement in the offense. I think this was what the question called for.

STATEMENT TRANSCRIPT[5]

TAPE NUMBER 61725
RECORDED STATEMENT OF
MICHAEL W. CHRISTMAN
Investigators: S.L. Miller, 12779, Van Nuys Investigative
L. Ridenour, 7877, Vay Nuys Investigative

Transcription: J.J. Rabe, J8871 Robbery-Homicide Division, L.A.P.D.

BY INVESTIGATORS:

Q. Michael, I'm Investigator Miller, Van Nuys Homicide. This is Investigator Ridenour. Do you know why you're here?

BY MICHAEL CHRISTMAN:

A. No.

Q. I'll tell you why you're here. You're here for a murder investigation. Okay? Now do you understand why you're here?

A. Yeah.

A. I'm going to advise you of your constitutional rights. I'll advise you that you have the right to remain silent. If you give up the right to remain silent, anything you say can and will be used against you in a court of law. You have the right to speak to an attorney and to have the attorney present during questioning. If you so desire and cannot afford one, an attorney will be appointed for you without charge before questioning. Do you understand all of these rights as I have explained them to you?

---

[5]The following Statement Transcript (ST) was admitted into evidence in the Juvenile Court as Petitioner's Exhibit No. 18.

A. Yeah.

Q. Okay, do you wish to give up your right to remain silent and talk to us about this murder?

[2] A. What murder? I don't know about no murder.

Q. I'll explain to you which one it is if you want to talk to us about it.

A. Yeah, I might talk to you.

Q. Do you want to give up your right to have an attorney present here while we talk about it?

A. Can I have my probation officer here?

Q. Well I can't get a hold of your probation officer right now. You have the right to an attorney.

A. How I know you guys won't pull no police officer in and tell me he's an attorney?

Q. Huh?

A. (Unintelligible) . . . Repeat of line 10

Q. Your probation officer (Unintelligible) is Mr. Christiansen

A. Yeah.

Q. Well I'm not going to call Mr. Christiansen tonight. There's a good chance we can talk to him later, but I'm not going to call him right now. If you want to talk to us without an attorney present, you can. If you don't want to, you don't have to. But if you want to say something, you can, and if you don't want to say something you don't have to. That's your right. You understand that right?

A. Yeah.

Q. Okay, will you talk to us wihout an attorney present?

A. Yeah, I want to talk to you.

Q. Okay. All right, Michael, the reason you're here is because you've been identified by a witness. Your dad's

[3] truck has been identified.

A. Yeah, I know all about that.

Q. You know all about that?

A. Yeah (Unintelligible). . . . hit and run (Unintelligible). . . for a robbery, not for a murder.

Q. Well we (Unintelligible) . . .

A. What?

Q. Well we don't always play fair, do we?

A. (Unintelligible) . . .

Q. Do you want to tell us about it?

A. No, I don't know anything about it.

Q. You don't know anything about it?

A. (Unintelligible) . . .

Q. (Unintelligible) . . .you've been driving your dad's truck?

A. (Unintelligible) . . .

Q. Last few weeks?

A. Yeah, a couple of days (Unintelligible) . . .

Q. When was the last time you drove that truck; do you remember?

A. Yeah (Unintelligible) . . . no, Monday night.

Q. Monday night?

A. Yeah, this past Monday, not the 25th.

Q. When did you have it before that?

A. Friday night.

Q. Where were you at last Friday night?

[4] A. At the Santana (Phonetic).

Q. The Santana?

A. Yeah (Unintelligible) . . . Sherman Way.

Q. What is that?

A. A Club.

Q. When did you have it before that?

A. I don't know.

Q. Huh?

A. I don't know.

Q. You don't remember?

A. Huh uh.

Q. (Unintelligible) . . .

A. The Friday before that (Unintelligible) . . .

Q. Did you have it last night (Unintelligible) . . .

A. I don't drive it on Monday (Unintelligible) . . .

Q. You don't usually drive on Monday?

A. Nope.

Q. Your dad told me you had it last Monday and you had it the Monday before that.

A. (Unintelligible) . . . old man said.

Q. Huh?

A. (Unintelligible) . . .

Q. Yeah.

A. (Unintelligible) . . .

Q. (Unintelligible) . . .you say you don't normally have it on Monday night, but your dad told me that you had it last.

[5] Monday night and the Monday night before that.

A. (Unintelligible) . . . I don't remember (Unintelligible) . . . that was just this Monday.

A. Where did you go this Monday when you had the truck?

A. (Unintelligible) . . . see that girl (Unintelligible) . . . Rosco (Unintelligible) . . . before she goes back to Seattle, Washington.

Q. What would make the difference what Monday night it was?

A. (Unintelligible) . . . nothing to do (Unintelligible) . . . got money to put in the gas tank sometimes I don't.

Q. Yeah, but don't that happen on Friday nights too?

A. No, I always get my money before the weekend.

Q. Well there's some Friday nights you had it then. There's some Saturday nights you had the truck.

A. I don't drive the truck on Saturdays because my mother (Unintelligible) . . . three o'clock in the morning (Unintelligible) . . . gas.

Q. How about Sunday night?

A. If I had to go to school I might (Unintelligible)

Q. (Unintelligible) . . . use it during the week at all (Unintelligible) . . . once in a while (Unintelligible) . . .

A. Yeah.

Q. Well then you wouldn't know exactly what nights you had it and what nights you didn't, if you go back too far; right?

[6] A. If I put my mind together I know everything I do.

Q. All right. What did you do, let's say on the 12th, the 12th of January. That was a Monday night.

A. (Unintelligible) . . . I might have been (Unintelligible) . . . one of them days I went to court.

Q. What was your court for? What was the allegation against you for going to court?

A. Possession.

Q. Possession?

A. And I go on the 15th of this month.

Q. What did you do on the Wednesday then, the coming Wednesday after that, which —

A. (Unintelligible) . . .

Q. — 12th, would be the 14th.

A. I don't know.

Q. How about the 17th, Thursday (Unintelligible

A. I don't know.

Q. (Unintelligible) . . . Saturday night?

A. (Unintelligible) . . . didn't have the truck.

Q. What?

A. All I know, this Saturday (Unintelligible) . . . how many Saturdays was that before the Saturday just passed?

Q. About three.

A. Three. I wasn't going nowhere because I go on a paper route at three o'clock in the morning with my mother. I'd be in by Seven, six o'clock.

Q. Paper route?

[7] A. Yeah.

Q. Do you deliver papers?

A. No (Unintelligible) . . . but I help her.

Q. Oh, every Saturday night?

A. (Unintlligible) . . couple of Saturdays.

Q. What about Sunday nights (Unintelligible) . . .

A. (Unintelligible) . . .

Q. She drives the truck, huh?

A. Not necessarily, no.

Q. How about Mondays?

A. That morning I just told you about when I went out there to see that lady.

Q. Well, yeah, but (Unintelligible) . . . haven't you?

A. Yeah (Unintelligible) . . .

Q. Do you remember (Unintelligible) . . .taken care of on Tuesday nights when you were driving the truck?

A. Nope.

Q. How about on Monday nights, do you remember any business on Monday nights?

A. Yeah, just this one in the past.

Q. Well what about prior to that?

A. Nope.

Q. How about in January, do you remember what –

A. Nope.

Q. In other words, you don't remember?

A. Nope.

[8] Q. What you had going on?

A. Nope.

Q. Mike, Investigator Miller here told you you've been identified and the truck has been identified in regard to a homicide. Now the idea here is that you — Did you somehow kill somebody?

A. Nope.

Q. Do you know of anybody who did kill anybody?

A. Might. I know a lot of people (Unintelligible).

Q. Okay. Now are you a ringleader — Are you the ringleader of this particular gang you run around with?

A. I don't run around with no gangs.

Q. Well did you mastermind this killing that took place?

A. Nope.

Q. Was it your idea to kill somebody?

A. No.

Q. Well if you know (Unintelligible) . . . a person goes to jail a long time for killing somebody sometimes, right?

A. Yeah.

Q. But yet sometimes things happen when they really wasn't expected to happen; right?

A. Yeah.

Q. And a lot of times this does happen; right?

A. Yeah.

Q. People are home when they aren't supposed to be home and all of a sudden they get involved, and people get mad and

[9] people get hurt; right?

A. (Unintelligible) . . .

Q. Huh?

A. That doesn't work that way with me.

Q. How does it work with you?

A. Because I don't get mad. If I get mad, I just get mad (Unintelligible) . . . not going to kill anybody (Unintelligible) . . .

Q. All right. Now let's say you were with somebody and you were out there with some other people and one of your associates or one of your friends got mad and don't have the same temperament you have.

A. (Unintelligible) . . .

Q. So something happens and somebody gets killed.

A. Talk to them and ask them. You got everybody down here. In fact, you got (Unintelligibile) . . .

Q. Were you driving the truck that night?

A. What night?

Q. The night that this guy got killed.

A. I don't know nothing about nobody getting killed.

Q. You know where Lemona Street's at?

A. Nope.

Q. Never heard of Lemona Street?

A. Nope.

Q. Do you know where Nordhoff Street's at?

A. Yeah.

[10] Q. Do you know where Columbus Street's at?

A. Yeah.

Q. Do you know (Unintelligible) . . . is at?

A. Nope.

Q. Do you know where Noble Street's at, Noble and Nordhoff?

A. Huh uh. The only thing I go down Nordhoff is Columbus to go to my sister's house.

Q. When was the last time you were at your sister's house?

A. A long time ago.

Q. How long is a long time ago?

A. Christmas vacation.

Q. What's the address of your sister's house on Columbus?

A. I don't know.

Q. Well between what intersecting streets?

A. It's the first apartment off of Nordhoff to the left (Unintelligible) . . .

Q. (Unintelligible) . . . Nordhoff and Parthenia. They are two big intersections.

A. (Unintelligible) . . .

Q. It's south toward Roscoe?

A. A (Unintelligible) . . .

Q. You haven't been over to your sister's since —

[11] A. Christmas vacation. As a matter of fact, it was before Christmas vacation.

Q. Well you were seen over there, you were seen over there in the truck. Now the idea is, hey, you know, if somebody else that was with you did this and you didn't have any part of it, then you're not the mastermind of it; are you?

A. (Unintelligible) . . . anybody could call the shots and somebody else do it.

Q. Well that's true. I'll agree to that, but the idea is if —

A. Fuck it, man, just stop. I didn't shoot the motherfucker. [Name ommitted] is the one that shot him. (Unintelligible) . . . over there now. (Unintelligible) . . . motherfucking murder on me.

Q. All right. Now let's get this out. Who is [Name omitted]

A. One of them motherfuckers you got a number fourteen, eleven, four or whatever.

Q. Who was he with? Was he in your truck?

A. No, he wasn't in my truck. He was on his feet.

Q. But he just got out of your truck, didn't he?

A. Yeah, but he was still on his feet.

Q. Well, yeah, true. I'll agree. He's on his feet, when he went up there, and when the things happened; right?

A. Yeah, you could say that.

Q. Where are you parked then?

A. Somewhere around there.

[12] Q. Well were you out on your feet too?

A. Nope.

Q. You're in the truck yet?

A. Well you probably could say that.

Q. Did you ever get out of the truck?

A. I always get out of the truck.

Q. No. I mean at the time this happened.

A. Yeah, you could say that.

Q. Well you went back to the location, didn't you?

A. Wait. Wait. Wait. What are you talking about?

Q. The location where it happened.

A. No. I didn't go up to that man's house.

Q. You didn't?

A. No.

Q. Well what did [Name omitted] tell you about it? He saw — He must have told you all about it then.

A. No. What you want me to do, tell you what he told me?

Q. Yeah.

A. I can't do that.

Q. Why?

A. Because mama said don't tell strangers nothing.

Q. Okay, I'm not a stranger.

A. I don't know you.

Q. Who was the other guy with you?

A. Little man out there.

[13] Q. Which one?

A. [Name omitted].

Q. [Name omitted] what?

A. [Name omitted].

Q. [Name omitted]? Whose gun was it?

A. [Name omitted]'s.

Q. [Name omitted] who?

A. [Name omitted].

Q. Where is the gun at now?

A. I don't know.

Q. What did this — [Name omitted], is he white or black?

A. Black.

Q. [Name omitted] is white?

A. Black. I don't know what you got (Unintelligible) . . . search warrant to kick in my front door (Unintelligible) . . . and shit. My sister said they didn't.

Q. We'll get by that —

A. (Unintelligible) . . .

Q. I just talked to your dad on the phone about that.

A. About what?

Q. About the officers.

A. No, man, my dad ain't shit. My dad, man (Unintelligible) . . . kicking my front door, man (Unintelligible) . . . got nothing to show.

Q. All right, Michael, tell us what happened that night.

A. Can't.

[14] Q. No, look, you can tell us what you did, like the fact that you drove up there; right?

A. Yeah.

Q. Okay, tell us about what you did.

A. Nothing, just heard the shot and (Unintelligible) . . .

Q. Okay, now before, what was you going to that area for?

A. You never know until you get into it, like you said.

Q. Well, that's right, you know (Unintelligible) . . . you were out there just burglarizing or what?

A. (Unintelligible) . . . just driving around town.

Q. Okay.

A. Hey, man (Unintelligible) . . . tell nobody what I've been telling you, man.

Q. (Unintelligible) . . . no way. No way (Unintelligible) . . .

A. (Unintelligible) . . .

Q. (Unintelligible) . . . Jerry will come in just a minute (Unintelligible) . . . He'll let us out. I told Jerry (Unintelligible) . . . I wanted my coffee, so he'll be in

here in just a minute. Jerry, I want my coffee. Okay, but anyway, tell us what you were just driving around the area for that night.

A. Yeah.

Q. And so you know what street it happened on, don't you?

A. No.

[15] Q. You aren't familiar with the area? Were you over to your sister's house (Unintelligible) . . . real close to your sister's house; right?

A. I wasn't over there, no.

Q. Oh, got our coffee (Unintelligible) . . . no,not yet. I'll go get it (Unintelligible) . . . Okay, just a minute. Okay, Michael, let me say something to you. You got a good chance that you can come out of this thing pretty good.

A. (Unintelligible) . . . bullshit, man.

Q. But don't screw yourself up, because you knwo what's going to happen. You know and I know. You know why we got all of you in here.

A. Yeah.

Q. Somebody is going to tell us what happened and the one who tells us what happened is the one that's not going to get hasseled.

A. Well, man, put it like this (Unintelligible) . . . take your word for that because, see I know I've been that there situation, what you just told me. They say that to just get you to cop out and then they'll back whatever you want to call it. They'll fuck you (Unintelligible) . . . just to hear you talking (Unintelligible) . . .

Q. Micke (Unintelligible) . . . coffee here (Unintelligible) . . . they are going to bring it into the office. You want a sip? Do you like coffee (Unintelligible) . . . Tell me, Mike, when you were driving around that night (Unintelligible) . . . had the gun, right? What kind of gun is it?

[16] A. Thirty-two.

Q. Thirty-two?

A. Yeah.

Q. Was it a short one or — What — What — What happened? Did they jump out of the car, or what?

A. Wait a minute.

Q. Okay, I'll wait a minute.

(PAUSE IN RECORDING) . . .

A. Man, we were just riding around talking about making some money.

Q. Making some money?

A. Yeah, then all of a sudden, [Name omitted] sees this old lady and old man driving, so he said, "Why don't you just follow them (Unintelligible) . . ." We went on and followed them.

Q. Wait. You say [Name omitted] saw the old lady and the old man?

A. Yeah. They was — They was (Unintelligible) . . . coming from somewhere, but we made a U-turn and started following them and then when they parked (Unintelligible) . . . man, he just (Unintlligible) . . . we all went around there and then we waited (Unintelligible) . . . going to leave and then she came back out. And when she came back out they went in and the man came out (Unintelligible) . . . *trash can and he threw a bag at* [Name omitted] *and* [Name omitted] *just shot him.* [Emphasis added.]

Q. You were there at the time; right?

(No audible answer) . . .

Q. Now did [Name omitted] hit him with anything first?

[17] A. Huh uh, not that I know of. He might have hit him first and then shot.

Q. Well you were standing right next to [Name omitted] when he shot him.

A. No (Unintelligible) . . . bushes.

Q. What?

A. I was in some bushes.

Q. You were in some bushes? Where was — What was the other kids' name again?

A. [Name omitted].

Q. [Name omitted]. Where was [Name omitted] at?

A. He might have been in the garage because the garage door was open.

Q. Because the woman had left again with the car, right?

A. Yeah, but see (Unintelligible) . . . had closed teh big door (Unintelligible) . . .

Q. Did you see this man throw some — Was it groceries, a grocery bag?

A. (Unintelligible) . . . trash in the grocery bag.

Q. You — Uh huh. And he threw this at [Name omitted] and [Name omitted] shot? Did [Name omitted] have his gun out at that time?

A. Yeah, I think so. I don't know if he hadit out or not. (Unintelligible) . . . like I said.

Q. Well what — Then what happened after [Name omitted] shot him?

A. We all ran, just left.

[18] Q. Did you go back to the car and jump in the car, pickup?

A. Yeah.

Q. Where did you have it parked?

A. Around the corner. I know the lady was the one who seen me because she was (Unintelligible) . . . around there.

Q. Did you see her?

A. No, but I knwo that's who it was (Unintelligible) . . . . standing around there.

Q. Did you take anything from the old man?

A. No.

Q. Not a thing?

A. Nope.

Q. Where was the location where [Name omitted] shot him? Where was [Name omitted] at and where was the man at?

A. Like the house is (Unintelligible) . . . room there and a room there and the garge door is there. He had a little walk up just like a little (Unintelligible) . . . with a hole in it, you know.

Q. Yeah, a little —

A. All right. The walkway and the man came out the door from this side. [Name omitted] came around the corner (Unintelligible) . . . and [Name omitted] shot him and I was right against the bushes there and [Name omitted] shot him (Unintelligible) . . . I got (Unintelligible) . . . jumped in (Unintelligible) . . .

Q. Whose idea was this to go up to this place, all three

[19] of you, or just yours, or just [Name omitted]'s (Unintelligible) . . .

A. [Name omitted] (Unintelligible) . . . seen the people first in the Cadillac.

Q. Uh huh.

A. So he just said, "Why don't you follow them."

Q. I see.

A. And then we went on and followed them.

Q. Well when you started following them, what was your idea for following them?

A. To get a little money off of them.

Q. You mean just pull up alongside of them and —

A. No, wait till they get out.

Q. Wait till they get out. Where did you park at first when they went in the house with the groceries? You said you saw them walk in the house with the groceries, right?

A. Well —

Q. Or sacks?

A. Well I parked in the same spot.

Q. And they — How come? Were you going to go up to the door later, or how were you going to get them?

A. (Unintelligible) . . . going in there at the same time, then when we statd walking up there the lady (Unintelligible) . . . coming back out and we ducked and then she left and she (Unintelligible) . . . going around the corner. I know she was looking because she seen [Name omitted] and [Name omitted] and (Unintelligible) . . . and when she left (Unintelligible) . . . on up in there.

[20] Q. They are both colored, huh?

A. Yeah.

Q. Well what you're saying is no one really masterminded this; no one planned to shoot him; right?

(No audible answer) . . .

Q. (Unintelligible) . . . of your coffee. But Mike here says that [Name omitted] first saw them and he said, "Why don't you follow that Cadillac." So they drove around and they pulled down in front of this house and they take some bags of groceries out and they go in the house. So they all three jump out of the pickup. They parked their pickup around the corner and they all three jump out and [Name omitted] goes up there and [Name omitted]'s got the gun and his other friend — [Name omitted], yeah, [Name omitted], he don't know for sure, but he thought he

was in the little garage (Unintelligible) . . . some bushes and so then [Name omitted] comes around the corner and told the man to hold it and he throws a sack of trash or something at him and Mike just shot him and (Unintelligible) . . . no one really masterminded it, so to speak. They were just out looking to pick up a couple of bucks. How long have you known [Name omitted] had this gun?

A. I don't know. Maybe had it for a little while, couple of weeks maybe.

Q. When was the last time you seen it?

A. Maybe about a week before he did that.

Q. Well then you saw it again that night, right?

[21] A. Yeah.

Q. When did you see it since then?

A. Wait. Wait. Wait. When did that — I seen it about a week before that and that's the first time I had seen it.

Q. Okay, then you saw it that night which was when Mike shot the person, right?

A. Yeah.

Q. Then when have you seen it since?

A. Never.

Q. Never? What has [Name omitted] told you happened to the gun?

A. He didn't.

Q. You say this is a .32 short barrel; right?

A. Yeah.

Q. Has it got —

A. It looks like a little old .38 snub nose, but it's a .32 (Unintelligible) . . . short bullets (Unintelligible) . . . longs.

Q. Well could it have been a .38?

A. Nope.

Q. Who told you it was a .32?

A. Man, I know guns. I ain't dumb.

Q. Oh, I just — I don't know how well you know, just like you ask me what a 1963 Oldsmobile looks like, I can't tell you because I'm not familiar with cars (Unintelligible) . . . 1963 Chevy looks like, I can, because I used to own one of them before I bought my other car. So, you know, it's

[22] different. (Unintelligible) . . . that's why I'm asking these questions. Stan, can you think of anything else? What I'd like (Unintelligible) . . . because I missed out on that other part. Why don't you run it by me and tell me again like you told (Unintelligible) . . . here what happened. How —

A. We was just riding around and all of a sudden the old lady and man were going one way and we seen them and [Name omitted] said, "Why don't you follow that." So we turned around and followed them. And when they pulled up in the driveway, we parked around the corner and got out. And then we was going to go up there and then the lady started (Unintelligible) . . . at first and we heard her foot prints coming back out. And so the lady got in the car and left and went on around in there and then a man came up to throw some trash away and we were all like — I don't know where [Name omitted] was, but (Unintelligible) . . . bushes (Unintelligible) . . . and I think [Name omitted] was in the garage like I said and then the man (Unintelligible) . . . [Name omitted] just came from around the corner and told him to hold it and the man picked up the trash bag and threw it at him (Unintelligible) . . . and [Name omitted] shot him and then we just all run.

Q. Did he hit him first?

A. I don't know.

Q. I asked him that question too. What was the guy wearing?

A. A blue robe.

Q. And what else?

[23] A. I don't know.

Q. Where did he shoot him at?

A. I don't know.

Q. Where did he tell you he shot him at?

A. He didn't say (Unintelligible) . . . where they shoot people at (Unintelligible) . . . just shoot to shoot them.

Q. Describe the house to me where it happened at.

A. Man, I don't know (Unintelligible) . . . house with a hole in the middle.

Q. With what in the middle?

A. A hole in the middle. (Unintelligible) . . . room here, room here, room here, and the garage here (Unintelligible) . . . walkway goes up and the house (Unintelligible) . . . front door.

Q. Was there any type of entranceway?

A. Yeah, the walkway like you can just — like you said.

Q. Was it a wrought iron fence (Unintelligible) . . .

A. (Unintelligible) . . .

Q. Brick fence (Unintelligible) . . .

A. (Unintelligible) . . .

Q. Did you have to go through any wooden gates, iron gates?

A. (Unintelligible) . . .

Q. You said there's a hole in the middle. Is that what you said?

A. Man, you know what a square is (Unintelligible) . . .

Q. Can you draw me a picture of what you're talking about?

[24] A. All right (Unintelligible) . . . here's a room here — and that front door is right here. I was in the bushes here. And the room was here and there's a little room right here and then the garage door comes out. (Unintelligible)

. . . walked in and [Name omitted] (Unintelligible) . . . to get in this garage right here (Unintelligible) . . . door was and the man comes out the door. [Name omitted] came around the corner and told him to hold it. The man hollered and threw the trash at him, and then he shot him and then we just ran back around to the corner, back to the truck.

Q. Did you see anybody else out on the street that night when that happened?

A. Nope — Yeah, two boys.

Q. Two boys? Where were they at?

A. About four houses in front of the truck.

Q. What were they doing?

A. Sitting in the car.

Q. Sure it was two boys, or it could have been a boy and a girl?

A. It might have been a boy and girl. They had long hair.

Q. Whereabouts was that?

A. Where abouts was what?

Q. Let me show you something here. See this map? Okay, here's the house you talking about, right (Unintelligible) . . .

A. Like that.

[25] Q. (Unintelligible) . . .

A. We were parked (Unintelligible) . . . street (Unintelligible) . . .

Q. (Unintelligible) . . .

A. This is the dead end street we went up and turned around and came back. This is the street (Unintelligible) . . .

Q. (Unintelligible) . . .

A. We were parked right here.

Q. (Unintelligible) . . .

A. There was some (Unintelligible) . . . people in

the car.

Q. Right there?

A. Yeah.

Q. Okay. This is the house now you're talking about, here?

A. Say right about here (Unintelligible) . . . back gate here and then the garage.

Q. Okay, the garage is right here like this?

A. Yeah.

Q. And the back gate is here?

A. No, over to the side a little bit (Unintelligible) . . . room attached here, a room attached here, a room attached here, and something goes right here (Unintelligible) . . . I went in some bushes right here.

Q. Bushes right here?

A. Yeah.

Q. Okay, and then —

[26] A. Garage door.

Q. This opening was here (Unintelligible) . . .

A. No, it wasn't closed like that (Unintelligible) . . . that way.

Q. Oh, that's right.

A. Okay, the room comes that way (Unintelligible) . . .

Q. (Unintelligible) . . .

A. Comes out the front door (Unintelligible) . . .

Q. He comes out the front door here?

A. Yeah.

Q. (Unintelligible) . . . So this is the garage, right?

A. Yeah

Q. And this is that open spot you were talking about?

A. (Unintelligible) . . . door see between the bushes where I was here. Okay, this was the opening (Unintelligible) . . . that would be the sidewalk (Unintelligible) . . .

Q. Okay (Unintelligible) . . . and then this is

where you parked the car then?

A. Yeah.

Q. And this is where you seen (Unintelligible) . . . were you over here across the street?

A. (Unintelligible) . . .

Q. Did you come across the street over here?

A. No. [Name omitted] and [Name omitted] walked across the street.

Q. [Name omitted] and [Name omitted] did. Where were you at?

A. (Unintelligible) . . . this is the house right here.

Q. Yeah.

[27] A. (Unintelligible) . . .

Q. You were over here when they walked across the street. Okay. Now let's go back over just one more thing, Michael. Let's try to get this part down. You've done real good. You've been truthful with us. I know you have because I know things about this investigation that you wouldn't know unless you were there. I know you've been truthful, but the one thing that we're concerned about is the gun. Now do you have any idea where that gun is at? Do you know what he would do with it?

A. He might have sold it.

Q. Who would he sell it to?

A. I don't know (Unintelligible) . . . like shit (Unintelligible) . . . something going down, man (Unintelligible) . . . he might have (Unintelligible) . . .

Q. There was a (Unintelligible) . . .

A. (Unintelligible) . . . Friday night.

Q. This last Friday night?

A. This Friday night coming.

Q. Coming? What kind of caper was that?

A. (Unintelligible) . . .

Q. Where was that going to be at?

A. I don't know. He never told me the address or

nothing.

Q. Is that a house?

A. Apartment house.

[28] Q. How many other capers have you been involved with these other guys, Michael?

A. None.

Q. None at all? Because it's all going to come out in the wash. It's all going to come out and it would look better if you're the one (Unintelligible) . . . because if one of the other guys (Unintelligible) . . . hell I know (Unintelligible) . . . it would be better if it came from you; right?

A. Yeah, but I wasn't —

Q. Well, that's what we're asking you. Was you with (Unintelligible) . . . any other capers?

A. (Unintellegible) . . . do nothing with them.

Q. Did you drive up to the location (Unintelligible) . . .

A. No (Unintelligible) . . . in the truck.

Q. Were you in there (Unitelligible) . . .

A. (Unintelligible) . . .

Q. Just walking around (Unintelligible) . . . What area were you in?

A. Up there where we stay in.

Q. You mean up in Lake View Terrace?

A. Yeah.

Q. Did you ever do anything down on Granada Hills or down in Sepulveda, down in there?

A. Nope.

Q. Don't you guys caper over north there?

A. Nope.

[29] Q. (Unintelligible) . . .

A. (Unintelligible) . . . go out there to Sherman Way and Topanga Canyon, like to go to that club on Friday nights.

A. Well how did you happen to get involved in this particular deal on this particular night?

A. We was just riding around.

Q. And where had you been before that?

A. At my house.

Q. Were you going — Where were you going when you went in that area?

A. (Unintelligible) . . .

Q. But did you plan on going to your sister's? It's real close to your sister's, wasn't it?

A. Nope — Yeah, it was, but (Unintelligible) . . . messing with my sister, man.

Q. Well, I was going to say how did you happen to hit this particular area?

A. Just riding around (Unintelligible) . . .

Q. Where was those other people's car, the Cadillac you see when you first saw it, and [Name omitted] says, "That looks like a couple of people that (Unintelligible) . . .

A. (Unintelligible) . . . going down north (Unintelligible) . . . don't know for sure.

Q. (Unintelligible) . . . Sepulveda, or what?

A. Might have been.

[30] Q. (Unintelligible) . . .

A. Down by the school.

Q. What school was that?

A. Monroe.

Q. Oh, Monroe (Unintelligible) . . . not too far from here (Unintelligible) . . . which is Nordhoff and Haskel, Sepulveda and Haskel.

A. (Unintelligible) . . .

Q. Saw them and then followed them (Unitelligible) . . . Did you know that [Name omitted] had the gun at this time?

A. Yes.

Q. And what was your conversation before that, just to pick up a few bucks that night or what?

A. Before we started riding around or what?

Q. No, when you were riding around.

A. We was just riding around, then all of a suddden, man, he just (Unintelligible) . . . He had the gun on him, man, and he said (Unintelligible) . . . money. I said, "I don't really care." I said, "But I ain't going out there (Unintelligible) . . . go in anybody's house (Unintelligible) . . . half the time the thing don't even shoot. And so he said, "All right then (Unintelligible) . . . going back home because it was getting close to the time to go home and then (Unintelligible) . . . He said, "Turn around and go."

Q. Okay, [Name omitted], before you puleld in here and parked, when you came down through this way?

[31] A. Uh huh.

Q. What were you ding, just before you came down through here, when you first come into that street?

A. Wouldn't Nordhoff be running down this way?

Q. Yeah, Nordhoff is right there.

A. (Unintelligible) . . . down Nordhoff here towards Osborne.

Q. Yeah, and where did you turn around at, could you remember?

A. Right there somewhere by the school.

Q. When you come down here, did youhave your lights on?

A. Yeah.

Q. You're sure you had your lights on when you come down by the —

A. Yeah, I turned my lights off when I went up in this horseshoe street and made a U-turn.

Q. Was that before it happened or after it happened

when you had — When you made your turn in the horseshoe?

A. Before.

Q. Before? Then you went back there and parked where your car is standing; that's when all of you got out of the car (Unintelligible) . . . or had some of you got out of the car before that?

A. (Unintelligible) . . . got out at the same time.

A. Okay, is there anything that you can think of that we haven't asked you that we should know about here?

[32] A. Huh uh.

Q. When you went up to the house — When the three of you went up to the house, what were you going to do?

A. (Unintelligible) . . . door was unlocked, see where it was cracked and not all the way closed (Unintelligible) . . . go on in. We had seen the man in the back room doing something back there and the door was way on this side of the house (Unintelligible) . . . to get to where he was.

Q. What were you going to do once you got in? He surely would have heard you.

A. (Unintelligible) . . . No, he wouldn't. The door was already half-way open.

Q. So what you were just — what, going to get what you could (Unintelligible) . . .

A. (Unintelligible) . . . wait till he came out (Unintelligible) . .

Q. Were you interested in taking merchandise at the house, or were you interested in actually taking money from him?

A. Just money.

Q. Have you read about this in the newspaper?

A. Nope.

Q. Heard about it on TV or anything?

A. Nope.

Q. But you knew what it was all about when they brought you in tonight. Had you figured it out?

[34] A. Man (Unintelligible) . . . motherfucking police pulled a gun and pointed it to my head, man (Unintelligible) . . . what the hell's going on.

Q. Did you think (Unintelligible) . . .

A. Yeah (Unintelligible) . . . I'm going to get caught, but (Unintelligible) . . . them motherfuckers (Unintelligible) . . . mouth shut.

Q. How many guys know about this?

A. Shit, I don't know.

Q. All of these guys out here (Unintelligible) . . .

Q. (Unintelligible) . . . we don't associate with them (Unintelligible) . . .

Q. How many guys do you know that do know about it?

A. I don't know if they know about the shooting, but I know (Unintelligible) . . . make some money that night (Unintelligible) . . .

Q. Who told them?

A. [Name omitted] because he's the only one that ever talks.

Q. Who do you think he told?

A. Hard to say (Unintelligible) . . . he might not have told nobody. And he might (Unintelligible) . . .

Q. Well what was (Unintelligible) . . . between you and [Name omitted] and [Name omitted] regarding not saying anything about this?

A. At first we just all said we wasn't going to say nothing, then we just split up.

Q. Well you have seen [Name omitted] since then, haven't you?

[35] A. Yeah.

Q. What was said about it at that time?

A. Nothing.

Q. No conversation (Unintelligible) . . .

A. He came over about maybe a day or two (Unintelligible) . . . "Man, did you hear us on the news (Unintelligible) . . . he said, "Bullshit (Unintelligible) . . . Didn't say nothing else about it.

Q. Did you tell your girlfriend about it?

A. Nope.

Q. Did you tell your dad about it?

A. Nope.

Q. Is [Name omitted] and [Name omitted] over to your house quite a bit?

A. Yeah, [Name omitted] don't (Unintelligible) . . . come over that much (Unintelligible) . . .

Q. He wants to go out and caper, huh?

A. Yeah.

Q. Then you've been out capering with him on other times. Have you ever shot —

A. (Unintelligible) . . .

Q. Okay.

A. Because I don't like to do nothing in my mother's truck.

Q. Okay (Unintelligible) . . .

A. (Unintelligible) . . .

Q. Has he ever told you that he had to shoot anybody else?

[36] A. (Unintelligible) . . . he don't know if he shot him.

Q. What do you mean when he's gang-banging (Unintelligible) . . .

A. When they used to have a lot of gangs going around shooting up people (Unintelligible) . . . for the hell of it.

Q. Did he ever mention any specific incidents to you?

(No audible answer) . . .

Q. Okay, that's it for now, Michael. We'll talk to you tomorrow. How old are you now, Michael?

A. Sixteen.

Q. Sixteen (Unintelligible) . . . We'll be back in a few minutes.

(END OF RECORDING) . . .